

COUNCIL OF THE TOWN OF LA PLATA
Emergency Ordinance 06-1

Introduced By: Mayor Gene Ambrogio
Date Introduced: January 10, 2006
Public hearing: February 14, 2006
Date Adopted: February 14, 2006
Date Effective: February 14, 2006

1 **An EMERGENCY ORDINANCE concerning**

2
3 **Town of La Plata**
4 **Infrastructure Bonds, 2006 Series A**
5

6 FOR the purpose of providing for the issuance and sale of an aggregate principal amount not to
7 exceed **Four Million One Hundred Thousand Dollars (\$4,100,000)** of bonds of the Town
8 of La Plata, Maryland, to be known as “The Town of La Plata, Maryland Infrastructure
9 Bonds, 2006 Series A”, to be issued and sold pursuant to the authority of Sections 4-101
10 through 4-255 of the Housing and Community Development Article of the Annotated Code
11 of Maryland, as amended, for the purpose of providing all or a portion of the funds
12 necessary for the purpose of the following projects: **Washington Avenue Sidewalks, St.**
13 **Mary’s Avenue Streetscape, Well Number Eleven, Pugh Property Purchase, refunding**
14 **its outstanding Infrastructure Bonds, 1996 Series A** and paying the costs of issuing the
15 bonds (as hereinafter defined); providing that the bonds shall be issued upon the full faith
16 and credit of the Town of La Plata, Maryland; providing for the disbursement of the
17 proceeds of the sale of the bonds and for the levy of annual taxes upon all assessable
18 property within the Town of La Plata for the payment of the principal of and interest on the
19 bonds as they shall respectively mature; providing for the form, tenor, denomination,
20 maturity date and other provision of the bonds; providing for the sale of the bonds;
21 providing that this Ordinance shall be an Emergency Ordinance, effective from the date of its
22 passage; and providing for related purposes, including the method of fixing the interest rate
23 to be borne by the bonds.
24

25 **WHEREAS**, the Town of La Plata, Maryland (the “Issuer”) is a municipal corporation of
26 the State of Maryland organized and operating under a charter (the “Charter”) adopted in
27 accordance with Article XI-E of the Constitution of Maryland and Article 23A of the Annotated

28 Code of Maryland, as amended (the “Maryland Code”); and

29

30 **WHEREAS**, pursuant to the authority of Sections 4-101 through 4-255 of the Housing and
31 Community Development Article of the Annotated Code of Maryland, as amended, the Issuer has
32 determined to issue its general obligation bonds in the aggregate principal amount not to exceed
33 Four Million One Hundred Thousand Dollars (\$4,100,000) for the purpose of financing and
34 refinancing the Washington Avenue Sidewalks and St. Mary’s Avenue Streetscape in the
35 approximate amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00), Well
36 Number Eleven in the approximate amount of One Million One Hundred Thousand Dollars
37 (\$1,100,000.00), the Pugh property purchase in the approximate amount of Six Hundred and Fifty
38 Thousand Dollars (\$650,000.00), the refunding of its Infrastructure Bonds, 1996 Series A in the
39 approximate amount of Seven Hundred and Seventy-five Thousand Dollars (\$775,000),
40 (collectively, the “Project”) and the payment of issuance costs, bond insurance premiums and other
41 related costs; and

42

43 **WHEREAS**, the Issuer proposes to issue and sell the Bonds to the Community
44 Development Administration, an agency in the Division of Development Finance of the Department
45 of Housing and Community Development, a principal department of the government of the State of
46 Maryland (the “Administration”), in connection with the Local Government Infrastructure Financing
47 Program of the Administration (the “Program”); and

48

49 **WHEREAS**, it is the intention of the Issuer by this Emergency Ordinance to provide for the
50 issuance and sale of the aforementioned Bonds and to obtain a loan from the Administration
51 pursuant to the Program (the “Loan”); and

52

53 **WHEREAS**, the Issuer intends to authorize the Mayor and Town Treasurer to execute and
54 deliver the Bonds and all other documents, certificates and other materials related to the issuance,
55 sale and delivery of the Bonds and the execution and delivery of the Loan; and

56

57 **WHEREAS**, the Administration intends to issue one or more series of its Local
58 Government Infrastructure Bonds (Ambac Insured) (the “Administration’s Bonds”) to finance the
59 Loan and other loans to be financed pursuant to the Program (the “Administration Financing”).

60

61 **NOW, THEREFORE, BE IT ENACTED:**

62

63 **Section 1. Authorization, Terms, Form of Bonds.**

64

65 (a) The Issuer shall borrow upon its full faith and credit and shall issue and sell upon its
66 full faith and credit an aggregate principal amount not to exceed Four Million One Hundred
67 Thousand Dollars (\$4,100,000) principal amount of its general obligation bonds, to be issued
68 pursuant to the authority of Sections 4-101 through 4-255 of the Housing and Community
69 Development Article of the Annotated Code of Maryland, as amended, to be known as the “Town

70 of La Plata, Maryland Infrastructure Bonds, 2006 Series A” (the “Bonds”). The proceeds from the
71 sale of the Bonds shall be used for the purpose of providing a portion of the funds necessary for
72 financing the Project and the payment of issuance costs, bond insurance premiums and other related
73 costs.

74
75 (b) The Bonds shall be issued as one or more fully registered bond certificates in the
76 aggregate principal amount not to exceed Four Million One Hundred Thousand Dollars
77 (\$4,100,000) payable to the Administration as the registered owner thereof. The Bonds shall be
78 issued in such amount or such lesser amount as determined by the Mayor pursuant to subsection (g)
79 below, which shall be equal to the principal amount of the Loan to be financed under the Program.

80
81 (c) The Bonds may be issued in one or more series and shall be dated as of the date of
82 issue, or as of such other date as is specified by the Administration; shall be numbered from R-1
83 upward; shall be initially registered in the name of the Administration or its designee; shall bear
84 interest from the date of issuance of the Administration’s Bonds, payable semiannually on May 1
85 and November 1, at such annual rate or rates and be payable in annual principal installments at the
86 designated Office of the Administration.

87
88 (d) The Bonds shall bear interest at an annual rate or rates of interest not to exceed 4.35
89 percent for a loan with a maturity of ten years, 4.80 percent for a loan with a maturity of twenty
90 years, the actual rate of rates of interest to be borne by the Bonds to be determined and established
91 by the Mayor of the Town of La Plata acting pursuant to Section 1(g) of this Emergency Ordinance.

92
93 (e) The Bonds shall be in substantially the form set forth on Exhibit A attached hereto
94 and made a part hereof, which form, together with all of the covenants and conditions therein
95 contained, is hereby adopted by the Issuer as and for the form of obligation to be incurred by the
96 Issuer and such covenants and conditions are hereby made binding upon the Issuer, including the
97 promise to pay therein contained.

98
99 (f) The Bonds are to be issued in connection with the Program to finance and refinance
100 a portion of the Project and to pay costs of issuance, bond insurance premiums and other related
101 costs. Under the Program, the Issuer will enter into a Repayment Agreement and a Pledge
102 Agreement with the Administration (respectively, the “Repayment Agreement” and the “Pledge
103 Agreement”). The Issuer also will execute and deliver in connection with the issuance of the Bonds
104 and the Program any additional documents, agreements, instruments and certificates requested by
105 the Administration (which, together with the Repayment Agreement and the Pledge Agreement are
106 herein referred to as the “Program Documents”). The Program Documents shall be in such form
107 and shall contain such terms and conditions as shall be approved by the Mayor of the Town of
108 La Plata and acceptable to the Administration.

109
110 (g) Because this Emergency Ordinance is being adopted before the details of the
111 Administration Financing which is funding the Loan to be made by the Administration to the Issuer

112 under the Program have been finalized, the Mayor of the Town of La Plata is hereby authorized to
113 make such changes to the amount and form of the Bonds, including insertions therein or additions or
114 deletions thereto, as may be necessary or appropriate to conform the terms of the Bonds to the
115 terms of the financing to be provided to the Issuer under the Program. Without limiting the
116 foregoing, it is presently contemplated that the Loan will be in an amount not to exceed \$4,100,000
117 in aggregate principal amount as hereby authorized, subject to final approval by the Administration;
118 accordingly, the Mayor of the Town of La Plata is specifically authorized: (i) to make changes to the
119 principal amount of the Bonds in order to reflect the final principal of the Loan not to exceed
120 \$4,100,000 as approved by the Administration and accepted by the Issuer, (ii) to authorize and
121 approve an interest rate or rates and payment schedule reflecting the principal and interest payments
122 with respect to the Bonds but not to exceed the maximum rate of interest to be borne by the Bonds
123 as set forth in subsection (d) above.

124
125 (h) This borrowing is in conformance with and does not exceed any and all applicable
126 debt limitations under the Charter.

127
128 **Section 2. Execution.** The Bonds and the Program Documents shall be executed on behalf
129 of the Issuer by the manual or facsimile signature of the Mayor of the Town of La Plata, and the seal
130 of the Issuer shall be affixed thereto or reproduced thereon and attested by the manual signature of
131 the Town Clerk of the Issuer. In the event any official whose signature appears on any of the Bonds
132 or the Program Documents shall cease to be an official prior to the delivery of the Bonds or the
133 Program Documents, or, in the event any official whose signature appears on any of the Bonds or
134 the Program Documents becomes an officer after the date of the issue, the Bonds or Program
135 Documents shall nevertheless be valid and binding obligations of the Issuer in accordance with their
136 terms. The Mayor of the Issuer is hereby authorized, empowered and directed to complete the
137 applicable form of the Bonds or the Program Documents and to make modifications, deletions,
138 corrections or other changes thereto in any manner which the Mayor, in the Mayor's discretion,
139 shall deem necessary or appropriate to complete the issuance and sale of the Bonds and the
140 execution and delivery of the Program Documents, as will not alter the substance thereof. The
141 execution of the Bonds and the Program Documents by the Mayor shall be conclusive evidence of
142 the Mayor's approval of the form and substance thereof.

143
144 **Section 3. Registration of Bonds.** The Town Treasurer shall act as registrar for the Bonds
145 and shall maintain registration books for the registration and registration of transfer of the Bonds.
146 No security or bond shall be required of the Town Treasurer in the performance of the duties of
147 registrar for the Bonds.

148
149 The Issuer may deem and treat the person in whose name any Bond shall be registered upon
150 the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or
151 not, for the purpose of receiving payment of, or on account of, the principal, premium, if any, of and
152 interest on such Bond and for all other purposes.

153

154 **Section 4. Prepayment.** The Bonds are being issued in connection with the Program and
155 will secure payment of the Administration’s Bonds, which are being issued by the Administration to
156 provide funds to purchase the Bonds from the Issuer. The Repayment Agreement limits the right of
157 the Issuer to prepay the Bonds in accordance with restrictions upon the right of the Administration
158 to redeem the Administration’s Bonds. Accordingly, the Issuer may prepay the Bonds only in
159 accordance with the provisions of the Repayment Agreement and the terms governing prepayments
160 as set forth in the Bonds.

161
162 **Section 5. Replacement of Mutilated, Lost, Stolen, or Destroyed Bonds.** In case any
163 Bond (a “Bond” being, for purposes of this Section, any one of the Bonds) shall become mutilated
164 or be destroyed, lost or stolen, the Issuer may cause to be executed and delivered a new Bond of
165 like date and tenor and bearing the same or a different number, in exchange and substitution for each
166 Bond mutilated, destroyed, lost or stolen, upon the owner paying the reasonable expenses and
167 charges of the Issuer in connection therewith and, in the case of any Bond being destroyed, lost or
168 stolen, upon the owner filing with the Issuer evidence satisfactory to it that such Bond was
169 destroyed, lost or stolen, and furnishing the Issuer with indemnity satisfactory to it. Any Bond so
170 issued in substitution for a Bond so mutilated, destroyed, lost or stolen: (i) may be typewritten,
171 printed or otherwise reproduced in a manner acceptable to the Administration, and (ii) shall
172 constitute an original contractual obligation on the part of the Issuer under this Emergency
173 Ordinance whether or not the Bond in exchange for which said new Bond is issued shall at any later
174 date be presented for payment and such payment shall be enforceable by anyone, and any such new
175 Bond shall be equally and proportionately entitled to the benefits of this Emergency Ordinance with
176 all other like Bonds, in the manner and to the extent provided herein.

177
178 **Section 6. Use of Proceeds.**

179
180 (a) The proceeds of the Bonds shall be held and invested by the Administration in its
181 sole discretion and shall be administered and disbursed by the Administration pursuant to the
182 Repayment Agreement. The proceeds of the Bonds shall be used, when and as required, to pay
183 Development Costs (as defined in the Repayment Agreement).

184
185 (b) After the Project has been completed and all Development Costs in connection
186 therewith have been paid, any balance of the proceeds of the sale of the Bonds held by the
187 Administration under the Repayment Agreement may be applied to the next maturing principal
188 installment or prepayment of the Bonds, as permitted by the Administration.

189
190 **Section 7. Covenants.** The Issuer covenants with the Administration and for the benefit of
191 the owners from time to time of the Bonds, that so long as the bonds or installments of principal
192 thereunder shall remain outstanding and unpaid:

193
194 (a) The Issuer will duly and punctually pay, or cause to be paid, to the
195 Administration the principal of the Bonds, premium (if any) and interest accruing thereon, at the

196 dates and places and in the manner mentioned in the Bonds from unlimited ad valorem taxes in the
197 event that available funds are inadequate to make such payment.

198
199 (b) The Issuer covenants that so long as any of the Bonds are outstanding and not
200 paid, unless other funds are available for payment of principal of, premium, if any, and interest on
201 the Bonds, it shall levy annually, in the manner prescribed by law, a tax on all real and tangible
202 personal property within its corporate limits subject to assessment for unlimited taxation, ad valorem
203 taxes in rate and amount and sufficient, to provide for the payment of the principal of and interest on
204 the Bonds as the same become due and payable; and in the event that the revenues available from
205 the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Issuer shall
206 levy additional taxes in the succeeding fiscal year to make up such deficiency; and the full faith and
207 credit and the unlimited taxing power of the Issuer are hereby irrevocably pledged to the punctual
208 payment of the principal of and interest on the Bonds as the same become due.

209
210 (c) The Issuer will promptly provide to the Administration (or to any person
211 designated by the Administration) all financial information and operating data concerning the Issuer
212 as may be required by the Administration in its discretion in order to comply with the requirements
213 of Rule 15c2-12 of the United States Securities and Exchange Commission, as in effect from time to
214 time, applicable to the Administration's Bonds.

215
216 **Section 8. Emergency Ordinance a Contract.** The provisions of this Emergency
217 Ordinance shall constitute a contract with the purchasers and owners from time to time of the
218 Bonds, and this Emergency Ordinance shall not be repealed, modified or altered in any manner
219 materially adverse to the Administration and interests of such purchasers or owners while the Bonds
220 or any portion thereof remain outstanding and unpaid without the consent of the owners of the
221 Bonds and the Administration.

222
223 **Section 9. Pledge of Local Government Payments.** As contemplated and authorized by
224 Section 4-229(b) of the Housing and Community Development Article of the Annotated Code of
225 Maryland, as amended, the Issuer hereby pledges, assigns and grants a security interest to the
226 Administration, its successors in trust and assigns, all right title and interest of the Issuer in and to
227 the Local Government Payments (as defined in the Pledge Agreement), now or hereafter acquired,
228 to secure payment of the principal of, premium, if any, and interest on the Bonds and any other
229 Local Obligations (as defined in the Pledge Agreement) issued and to be issued from time to time by
230 the Issuer under the Program, all as more fully set forth and provided in the Pledge Agreement.

231
232 **Section 10. Purchase Price of Bonds.** The Bonds shall be sold for cash in accordance with
233 the terms and provisions of this Emergency Ordinance at par or, if discount is permitted by law, at
234 such discount as is agreed with the Administration in accordance with the terms and provisions of
235 this Emergency Ordinance, and as authorized by Section 4-229(a) of the Housing and Community
236 Development Article of the Annotated Code of Maryland, as amended.

237

238 **Section 11. Sale of Bonds.** The Bonds shall be sold to the Administration under the
239 Program at private sale, as authorized by Section 4-229(a) of the Housing and Community
240 Development Article of the Annotated Code of Maryland, as amended.

241
242 **Section 12. Authority to Take Action; Publication and Public Hearing.**

243
244 (a) The officers and employees of the Issuer are hereby authorized and directed to do
245 all acts and things required of them by the provisions of this Emergency Ordinance, for the full,
246 punctual and complete performance of all the terms, covenants and provisions of the Bonds, the
247 program documents and this Emergency Ordinance and to do and perform all acts and to execute,
248 seal and deliver all documents or instruments of writing which may be necessary or desirable to
249 carry out the full intent and purpose of this Emergency Ordinance and the Program Documents.

250
251 (b) As required by Sections 4-230(b) of the Housing and Community Development
252 Article of the Annotated Code of Maryland, as amended, prior to the issuance of the Bonds, the
253 Issuer shall publish in a newspaper of general circulation in the jurisdiction of the Issuer a notice of
254 the proposed issuance of the Bonds, which notice shall include the proposed amount of the issue,
255 the nature of the project to be financed, the time and place of the public hearing, and the name and
256 address of the where written comments may be sent, and the Issuer shall hold a public hearing on
257 the proposed issuance of the Bonds. Such actions may be (or have been) taken prior to or
258 simultaneously with the adoption of this Emergency Ordinance.

259
260 (c) Pursuant to the requirements of Section 13-19D of the Town Code and Section
261 C6-4 of the Charter, the Town Clerk shall promptly cause a copy of this Emergency Ordinance to be
262 posted in a public place and shall promptly cause a copy of this Emergency Ordinance to be filed in
263 the records of the Town Council.

264
265 **Section 13. Tax Matters**

266
267 (a) The Mayor and the Treasurer or Clerk-Treasurer shall be the officers of the
268 Issuer responsible for the issuance of the Bonds within the meaning of the Arbitrage Regulations
269 (defined herein). The Mayor and the Treasurer or Clerk-Treasurer shall also be the officers of the
270 Issuer responsible for the execution and delivery (on the date of issuance of the Bonds) of a
271 certificate of the Issuer (the "Section 148 Certificate") which complies with the requirements of
272 Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable
273 regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby directed to
274 execute the Section 148 Certificate and to deliver the same to the Administration on the date of the
275 issuance of the Bonds.

276
277 (b) The Issuer shall set forth in the Section 148 Certificate its reasonable expectations
278 as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bonds, or
279 of any monies, securities or other obligations to the credit of any account of the Issuer which may be

280 deemed to be proceeds of the Bonds pursuant to Section 148 or the Arbitrage Regulations
281 (collectively, “Bond Proceeds”). The Issuer covenants that the facts, estimates and circumstances
282 set forth in the Section 148 Certificate will be based on the Issuer’s reasonable expectations on the
283 date of issuance of the Bonds and will be, to the best of the certifying officials, knowledge, true and
284 correct as of that date.

285
286 (c) The Issuer covenants and agrees with each of the holders of any of the Bonds that
287 it will not make, or (to the extent that it exercises control or direction) permit to be made, any use
288 of the Bond Proceeds which would cause the Bonds to be “arbitrage bonds” within the meaning of
289 Section 148 and the regulations thereunder which are applicable to the Bonds on the date of
290 issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds.

291
292 (d) The Issuer further covenants that it shall make such use of the proceeds of the
293 Bonds, regulate the investment of the proceeds thereof; and take other and further actions as may be
294 required to maintain the excludability from gross income for federal income tax purposes of interest
295 on the Bonds. All officers, employees and agents of the Issuer are hereby authorized and directed to
296 take such actions, and to provide such certifications of facts and estimates regarding the amount and
297 use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply
298 with, or to evidence the Issuer’s compliance with, the covenants set forth in this Section.

299
300 (e) The Mayor and the Treasurer or Clerk-Treasurer, on behalf of the Issuer, may
301 make such covenants or agreements in connection with the issuance of Bonds issued hereunder as
302 he or she shall deem advisable in order to assure the registered owners of such Bonds that interest
303 thereon shall be and remain excludable from gross income for federal income tax purposes, and such
304 covenants or agreements shall be binding on the Issuer so long as the observance by the Issuer or
305 any such covenants or agreements is necessary in connection with the maintenance of the exclusion
306 of the interest on such Bonds from gross income for federal income tax purposes. The foregoing
307 covenants and agreements may include such covenants or agreements on behalf of the Issuer
308 regarding compliance with the provisions of the Internal Revenue Code of 1986, as amended, as the
309 Mayor and the Treasurer or Clerk-Treasurer shall deem advisable in order to assure the registered
310 owners of such Bonds that the interest thereon shall be and remain excludable from gross income for
311 federal income tax purposes, including (without limitation) covenants or agreements relating to the
312 investment of the proceeds of such Bonds, the payment of rebate (or payments in lieu of rebate) to
313 the United States, limitations on the times within which, and the purpose for which, such proceeds
314 may be expended, or the use of specified procedures for accounting for and segregating such
315 proceeds.

316
317 **Section 14. Effective Date; Miscellaneous.**

318
319 (a) As provided in Section C6-4 of the Town Charter and Section 13-19 of the Town
320 Code, this Emergency Ordinance shall take effect from the date of its adoption, and it is the intent
321 hereof that the laws of the State of Maryland shall govern its construction and the construction of

322 the Bonds. Any copy of this Emergency Ordinance duly certified by the Town Clerk or the Town
323 Clerk's successor in office shall constitute evidence of the contents and provisions hereof.

324
325 **ADOPTED** this _____ day of _____, 2006, by the Council of the Town of
326 La Plata, Maryland, by affirmative vote of _____ to _____ opposed.

327

SEAL:

COUNCIL OF THE TOWN OF LA PLATA

Gene Ambrogio, Mayor

R. Wayne Winkler, Councilman

C. Keith Back, Councilman

ATTEST:

Paretta D. Mudd, Councilwoman

Judith T. Frazier, Town Clerk
Date: _____

Vic E. Newman, Councilman

EXPLANATION:
CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
((Double Parenthesis)) indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike Out~~ indicates matter stricken from bill by amendment or
deleted from the law by amendment.